

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ROGER MARX DESENBERG,

Plaintiff,

-v-

GOOGLE, INC.,

Defendant.

ORDER
08 cv 10121 (GBD)(AJP)

GEORGE B. DANIELS, District Judge:

Pro se Plaintiff Roger Marx Desenberg (“Desenberg” or “Plaintiff”) brought this action against Google, Inc. (“Google” or “Defendant”) alleging that Defendant’s “AdWords” system directly and indirectly infringed Defendant’s patent, U.S. Patent No. 7,139,732. Defendant’s moved to dismiss Plaintiff’s complaint pursuant to Fed. R. Civ. P. 12(b)(6). This Court referred the matter to Magistrate Judge Andrew J. Peck for a Report and Recommendation. Magistrate Judge Peck issued a Report and Recommendation (“Report”) recommending dismissal of Plaintiff’s complaint for failure to state a claim for either direct or indirect patent infringement. This Court adopts the Report’s recommendation that Defendant’s motion to dismiss be granted.

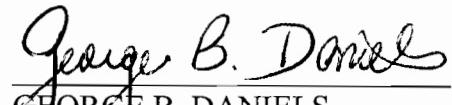
The Court may accept, reject or modify, in whole or in part, the findings and recommendations set forth within the Report. 28 U.S.C. § 636(b)(1). When there are objections to the Report, the Court must make a de novo determination of those portions of the Report to which objections are made. Id.; see also Rivera v. Barnhart, 432 F. Supp. 2d 271, 273 (S.D.N.Y. 2006). The district judge may also receive further evidence or recommit the matter to the magistrate judge with instructions. See Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1)(c). It is not required, however, that the Court conduct a de novo hearing on the matter. See United States v.

Raddatz, 447 U.S. 667, 676 (1980). Rather, it is sufficient that the Court “arrive at its own, independent conclusions” regarding those portions to which objections were made. Nelson v. Smith, 618 F.Supp. 1186, 1189-90 (S.D.N.Y. 1985) (quoting Hernandez v. Estelle, 711 F.2d 619, 620 (5th Cir. 1983)). When no objections to a Report are made, the Court may adopt the Report if “there is no clear error on the face of the record.” Adee Motor Cars, LLC v. Amato, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005) (citation omitted).

In his report, Magistrate Judge Peck advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Plaintiff timely filed objections to the Report arguing that he satisfied his pleading standard. This Court has examined the objections and finds them to be without merit. Magistrate Judge Peck correctly determined that Plaintiff failed to state a claim for either direct or indirect patent infringement. Accordingly, the Court adopts the Report in its entirety.

Dated: New York, New York
January 11, 2010

SO ORDERED:


GEORGE B. DANIELS
United States District Judge